



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY Blue Ridge Regional Office

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VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO SCHRADER-BRIDGEPORT INTERNATIONAL, INC. EPA ID No. VAD082881970

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Schrader-Bridgeport International, Inc. for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Administrative Process Act" or "APA" means Chapter 40 (§ 2.2-4000 *et seq.*) of Title 2.2 of the Va. Code.
2. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
3. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
4. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
5. "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled, as defined by 40 CFR § 260.10.

6. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
7. "Designated Facility" means (1) A hazardous waste treatment, storage, or disposal facility which: (i) has received a permit (or interim status) in accordance with the requirements of 40 CFR Parts 270 and 124; (ii) has received a permit (or interim status) from a State authorized in accordance with 40 CFR Part 271; or (iii) is regulated under 40 CFR § 261.6(c)(2) or 40 CFR § 266, Subpart F; and (iv) that has been designated on the manifest by the generator pursuant to 40 CFR § 262.20.
8. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
9. "Facility" or "Site" means the SBI facility located at 205 Frazier Road in Altavista, Virginia.
10. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
11. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
12. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
13. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
14. "Order" means this document, also known as a Consent Order.
15. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
16. "SBI" means Schrader-Bridgeport International, Inc., a company authorized to do business in Virginia and its members, affiliates, partners, subsidiaries, and parents. SBI is a "person" within the meaning of Va. Code § 10.1-1400.

17. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
18. "Storage" means the holding of solid or hazardous waste for a temporary period, at the end of which the waste is treated, disposed of, or stored elsewhere, as defined by 40 CFR § 260.10 and 9 VAC 20-81-10, as applicable.
19. "Va. Code" means the Code of Virginia (1950), as amended.
20. "VAC" means the Virginia Administrative Code.
21. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. SBI owns and operates the Facility, which is located in Altavista, Virginia. The Facility manufactures fluid control devices (valve cores, valve housings, and pressure relief valves) for the automotive industry. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. SBI submitted an updated RCRA Subtitle C Site Identification Form for the Facility dated March 27, 2014 that gave notice of regulated activity at the Facility as a LQG of hazardous waste. SBI had previously been issued EPA ID No. VAD082881970 for the Facility.
3. At the Facility, SBI generates solid wastes which are also hazardous wastes. Hazardous wastes generated at the Facility include wastes with the following waste codes: D001, D006, D007, D008, as described in 40 CFR § 261.21. These hazardous wastes are accumulated in containers at the Facility after generation.
4. On September 14, 2015, DEQ-BRRO staff inspected the Facility for compliance with the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, the Department made the following observations:
 - a. SBI exceeded the less than 90 day accumulation requirement for LQGs by storing waste for up to 208 days.

Va. Code § 10.1-1426(A) states that no person shall transport, store, provide treatment for, or dispose of a hazardous waste without a permit from the Director.

40 CFR § 262.34(b) states that a generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in §§ 261.31 or 261.33(e) in a calendar month, who accumulates hazardous waste or acute

hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265, and 267 and the permit requirements of 40 CFR part 270 unless he has been granted an extension to the 90-day period.

- b. SBI failed to label hazardous waste containers with accumulation start dates at the less than 90 day accumulation area at the Oberlin Press in the Chip Spinning Area.

40 CFR § 262.34(a)(2) requires generators to mark each hazardous waste container with the date upon which each period of accumulation begins.

- c. SBI did not notify DEQ of the establishment of the 90 day accumulation area at the Oberlin Press in the Chip Spinning Area.

9 VAC 20-60-262(B)(4) states that for accumulation areas established after March 1, 1988, generators shall notify the Department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR § 262.34 prior to or immediately upon the establishment of each for 90-day accumulation area. This notification shall specify the exact location of the accumulation area at each site.

- d. The containers of hazardous waste in the 90-day accumulation area at the Oberlin Press in the Chip Spinning Area were not labeled with the words "hazardous waste".

40 CFR § 262.34(a)(3) requires generators to mark each hazardous waste container with the words "Hazardous Waste".

- e. The containers of hazardous waste in the 90-day accumulation area at the Oberlin Press in the Chip Spinning Area were not kept closed.

40 CFR § 265.173(a) requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

- f. SBI did not have a copy of the manifest signed by the designated facility which received the waste for three shipments.

40 CFR § 262.40(a) requires that generators keep a copy of each manifest signed in accordance with 40 CFR § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

- g. SBI did not determine the status of the hazardous waste shipments or file exception reports when the final signed copies of the missing manifests were not received by the deadline.

40 CFR § 262.42(a) requires that a large quantity generator must (1) contact the transporter and/or the owner of the designated facility to determine the status of the hazardous waste if the generator does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter, and (2) submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.

- h. SBI did not have a written training plan and was not able to document that all employees responsible for managing hazardous waste had received annual training in 2013 and 2014.

40 CFR § 265.16(d), as required by 40 CFR § 262.34(A)(4), requires the owner or operator to maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling the job; (2) A written job description for each position listed above; (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed above; (4) Records that document that the training or job experience required above has been given to, and completed by, facility personnel.

- i. SBI accumulated two containers of universal waste (batteries) for more than one year.

40 CFR § 273.15(a) states that a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste was generated.

5. On November 5, 2015, based on the September 14, 2015 inspection and follow-up information, the Department issued NOV No. 15-11-BRRO-001 to SBI for the violations described in Paragraph C(4) above.
6. On November 17, 2015, SBI submitted a written response to the NOV.
7. On November 24, 2016, DEQ staff and a representative of SBI met to discuss the NOV.
8. On January 26, 2016, SBI submitted a second written response to the NOV. This response documented return to compliance for some violations. On February 12, 24 and 29, 2016, SBI submitted additional follow-up material by e-mail documenting correction of the remaining violations.
9. Based on the results of the September 14, 2015 inspection, and the documentation submitted by SBI, the Board concludes that SBI has violated Va. Code § 10.1-1426(A), 40 CFR § 262.34(b), 40 CFR § 262.34(a)(2), 9 VAC 20-60-262(B)(4), 40 CFR § 262.34(a)(3), 40 CFR § 265.173(a), 40 CFR § 262.40(a), 40 CFR § 262.42(a)(1) & (2), 40 CFR § 265.16(d), 40 CFR § 273.15(a), as described in paragraph C(4), above.
10. SBI has submitted documentation that verifies that the violations described in Paragraph C(4), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Schrader-Bridgeport International, Inc., and Schrader-Bridgeport International, Inc. agrees to pay a civil charge of \$8,400.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Schrader-Bridgeport International, Inc. shall include its Federal Employer Identification Number (FEIN) (~~95-3959558~~) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of SBI for good cause shown by SBI, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, SBI admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. SBI consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. SBI declares that it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by SBI to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. SBI shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. SBI shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. SBI shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which SBI intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and SBI.
- 11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after SBI has completed all of the requirements of the Order;
 - b. SBI petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to SBI.

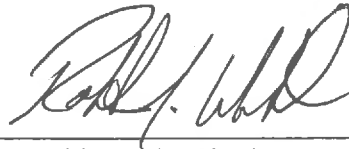
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve SBI from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by SBI and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of SBI certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind SBI to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of SBI.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, SBI voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 4th day of October, 2016.

A handwritten signature in black ink, appearing to read "Robert J. Weld", is written over a horizontal line.

Robert J. Weld, Regional Director
Department of Environmental Quality

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Schrader-Bridgeport International, Inc. voluntarily agrees to the issuance of this Order.

Date: 8/22/16 By: Drew Leftwich

Commonwealth of Virginia

City/County of Lynchburg

The foregoing document was signed and acknowledged before me this 22 day of

August 2016, by Drew Leftwich

Patricia Worrell

Notary Public

7043771

Registration No.

My commission expires: 01/31/2017

Notary seal: